

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LOUIS ALFONSE OLONA,

Plaintiff,

vs.

NDCS, WARDEN MAHR, SCOTT
FRAKES, and AARON BLIVEN,

Defendants.

8:20CV171

**MEMORANDUM
AND ORDER**

On October 28, 2020, the court granted Plaintiff 30 days in which to file an amended complaint alleging a “procedural due process claim upon which relief can be granted against Defendants Frakes, Mahr, and Bliven in their individual capacities.” (Filing 16 at CM/ECF p. 8.) The court dismissed Plaintiff’s claims against these Defendants in their official capacities and against the NDCS as barred by the Eleventh Amendment. (*Id.* at CM/ECF p. 7.)

On November 30, 2020, the court received Plaintiff’s Motion for Continuance (Filing 17) requesting additional time in which to file an amended complaint because Plaintiff’s institution is on “lockdown quarantine” due to a COVID-19 outbreak within the facility. Plaintiff also requests a copy of his original Complaint so he can “amend . . . verbatim.” (Filing 17 at CM/ECF p. 2.)

Plaintiff’s requests for an enlargement of time and for a copy of his Complaint will be granted. However, Plaintiff should note that he should not simply repeat the allegations of his Complaint in his amended complaint because the court has dismissed Plaintiff’s claims against Defendants Frakes, Mahr, and Bliven in their official capacities and against the NDCS as barred by the Eleventh Amendment. Rather, Plaintiff should include in his amended complaint truthful allegations stating a procedural due process claim upon which relief can be granted against Defendants

Frakes, Mahr, and Bliven in their individual capacities, as directed in the court's previous Memorandum and Order (Filing 16).

Accordingly,

IT IS ORDERED:

1. Plaintiff's Motion for Continuance (Filing 17) is granted, and Plaintiff shall file an amended complaint pursuant to the instructions in Filing 16 on or before January 15, 2021;
2. Along with a copy of this Memorandum and Order, the Clerk of Court shall send to Plaintiff at his last-known address a copy of his original Complaint (Filing 1) for his use in composing an amended complaint;
3. The Clerk of Court shall set a pro se case management deadline as follows: January 15, 2021—amended complaint due.

DATED this 1st day of December, 2020.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge